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ELIMINATION OF RACIAL DISCRIMINATION

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST REGIME OF SOUTH AFRICA

Preliminary report on monitoring the transition to democracy in South Africa, submitted by Ms. Judith Sefi Attah, Special Rapporteur, pursuant to Sub-Commission resolution 1992/6

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Introduction

1. Since its thirtieth session, in 1975, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities has annually considered the report of its Special Rapporteur, Mr. Ahmed Khalifa, on the adverse consequences for the enjoyment of human rights of assistance, in particular through investment of capital and military aid, given to the racist regime in South Africa. The annual presentation of the list of institutions giving indirect support to the South African regime has been of major importance in sensitizing the international community to bring pressure on the Government of South Africa to start amending its racist policies, which, for the last half-century, have resulted in the disenfranchisement of the majority of the black population of the country.

2. However, following the reform process begun in February 1990 by South African President F.W. De Klerk and the subsequent partial lifting of economic and socio-cultural sanctions by various members of the international community, it was felt that the continued updating of the list would no longer serve the purpose for which it was intended. None the less, convinced of the need for the United Nations human rights bodies to continue to contribute to the monitoring of the process of total eradication of apartheid, the Sub-Commission, at its forty-fourth session, adopted resolution 1992/6 of 21 August 1992 which, inter alia, recommended that the Commission on Human Rights and the Economic and Social Council authorize the Sub-Commission to entrust Ms. Judith Sefi Attah with the task of presenting annually to it a report on the transition to democracy in South Africa. The report was to include the following:

(a) Steps taken in accordance with international human rights instruments to prevent violence between different groups in South Africa;

(b) Steps taken to investigate the alleged involvement of the South African security forces in fomenting violence and how this problem is being addressed;

(c) Steps taken to ensure equal political participation of all South Africans, including those removed under the apartheid system to the so-called homelands;

(d) Steps taken to ensure the enjoyment by all South Africans, without discrimination, of economic and social rights; and

(e) An analysis of the obstacles preventing the democratization of South Africa and ways and means of eliminating them.

3. At its forty-ninth session, the Commission on Human Rights, by its resolution 1993/19, recommended to the Economic and Social Council that it authorize the Sub-Commission's recommendation and request the Secretary-General to extend to the Special Rapporteur all the assistance she might require in the exercise of her mandate.

4. Pursuant to this mandate, the Special Rapporteur made contact in New York with key United Nations bodies seized with the question of apartheid such as

the Special Committee against Apartheid, the Special Political Committee, the United Nations Educational and Training Programme for Southern Africa, the United Nations Trust Fund for South Africa and the Centre on Transnational Corporations. Consultations were also held at the Centre for Human Rights in Geneva. The purpose of the contacts was to enable the Special Rapporteur to benefit from the vast body of information on the subject which is at the disposal of these bodies. In addition, special reports like those of the Commonwealth Observer Mission to South Africa, the findings of the Special Envoys of the Secretary-General as well as articles in newspapers, magazines and other publications relevant to the mandate were consulted. The sources of information used in this report are listed in the notes. Time did not permit the Special Rapporteur to consult the main actors within or outside South Africa.

5. The report examines the various issues contained in the Special Rapporteur's mandate with effect from February 1990 when, in a speech to Parliament, South African President F.W. De Klerk signalled his Government's commitment to the dismantling of the racial structures of apartheid. In a slight rearrangement of the sequence of the issues, the report first of all considers the political question before dwelling on violence. This rearrangement stems from a recognition of the fact that in some respects, violence in South Africa is, apart from constituting a major obstacle to the process of transition to democracy, fundamentally a product of the political inequities that formed part and parcel of the doctrine of apartheid. In recognition of the facilitating role which the international community can play, and is playing, in the transition process, the report also highlights some of the latest efforts in this direction as they impact either on the political process, violence or the enjoyment of social and economic rights by all South Africans.

I. EQUAL POLITICAL PARTICIPATION

6. The very first step aimed at creating a new democratic, non-racial and united South Africa in which all its citizens enjoy equal political participation, in accordance with article 21 (i)-(iii) of the Universal Declaration of Human Rights and article 25 (a)-(c) of the International Covenant on Civil and Political Rights, was taken in February 1990 when President De Klerk, in a bid to create an enabling environment, announced in Parliament the unbanning of the African National Congress (ANC), the South African Communist Party (SACP) and the Pan Africanist Congress (PAC) and lifted the restrictions on other anti-apartheid movements. This act was followed very swiftly by the release of ANC leader Nelson Mandela on 11 February 1990 after 27 years of imprisonment.

7. Following Mr. Mandela's release, several significant meetings were held during that year between the Government and ANC with agreements being announced in the form of minutes. By virtue of the Groote Schurr, Pretoria and DF Malan Minutes, the Government undertook to work towards the lifting of the state of emergency under which parts of the country had been governed, a phased release of political prisoners, the granting of immunity from prosecution of the National Executive Committee members of ANC, and immunity with respect to political offences. ANC on its part agreed to suspend its armed actions against the Government. By the autumn of 1990, the Government

had lifted the state of emergency in Natal and Transvaal, published the Indemnity Act of 1990 and set up the Coordinating Committee for the repatriation of the 30,000 1/ South African exiles.

8. The year 1991 witnessed additional positive changes directed at the exercise by all South Africans, regardless of race, of their civil and political rights, with the repeal of the Separate Amenities Act, the Land Act, the Population Registration Act and the Group Areas Act. These four high visibility instruments of apartheid had, over the years, been used by the Government to systematically and progressively dehumanize the black majority and deny them their fundamental human rights. Their repeal, therefore, signalled the Government's declared commitment to the pursuit of a course of peaceful negotiations within a stable environment, in the search for an all-inclusive democracy in South Africa.

9. But the most significant step to date on the issue of political rights has been the establishment of the Convention for a Democratic South Africa (CODESA) under which 18 political organizations including the South African Government, ANC, the ruling National Party, the Inkatha Freedom Party (IFP), four other parliamentary parties, all 10 homeland administrations, the Natal Indian Congress, the South African Communist Party (SACP), the Transvaal Indian Congress and numerous observers met under the chairmanship of two judges 2/ in December 1991. CODESA represented the first time a forum of various political organizations was created to deliberate jointly on a post-apartheid political blueprint for the country. A number of organizations, notably PAC, the Conservative Party (CP) and the Azania Peoples' Organization (AZAPO), refused to participate in the forum for various reasons.

10. The first meeting was held at the World Trade Centre in Johannesburg on 20 and 21 December and it resulted in a signed declaration of intent by which the parties committed themselves to creating a non-discriminatory, undivided South Africa which will be free, open and founded on democratic values. The parties agreed to pursue policies that would promote economic growth and social justice, renounce violent change in favour of peaceful change and undertook to draw up a new constitution which would enshrine multi-party democracy, universal suffrage, freedom of association, separation of powers and other checks and balances.

11. To give concrete expression to these aspirations, CODESA established five major working groups charged respectively with the creation of a climate for free political activity, constitutional principles, transitional arrangements, the future of the homelands and time-frames and implementation issues. A Management Committee with the mandate to resolve outstanding matters which have proved problematic in the working groups and a Gender Advisory Committee which is to advise on the gender implications of the terms of reference and decisions of the working groups and the Management Committee were also created as important structures of CODESA.

12. The climate for equal political participation by all South Africans in the democratic process was given impetus in a whites-only referendum on 7 March 1992 in which more than 68.7 per cent of the more than 2.8 million voters endorsed the reform of apartheid begun two years

earlier by President De Klerk. Following encouraging negotiations under CODESA during the first few months of 1992, a number of discriminatory acts in South Africa's statute books were amended. These include the repeal by Parliament of Section 44 (1) of the Correctional Services Act of 1959 and Section 27 (6) of the Police Act of 1959 both of which had placed severe restrictions on the freedom to report on police and prisons in South Africa.

13. Nine other laws restraining free political activity in violation of international human rights instruments, including a law that enabled the Government to expel from the country any person unable to read and write a European language, also came under review. The nine laws are the Admission of Persons to the Republic Act of 1972, the Affected Organizations Act of 1974, Section 205 of the Criminal Procedure Act of 1977, the Demonstration in or near Court Buildings Act of 1982, the Disclosure of Foreign Funding Act of 1989, the Gathering and Demonstrations Act of 1973, the Prohibition of Foreign Financing of Political Parties Act of 1968 and the Secret Services Account Act of 1978. 3/

14. The repeal of section 4 (a) and (b) of the Registration of Newspapers Act of 1982 relating to ministerial powers to cancel the registration of newspapers is being considered while Parliament has passed the Constitution Amendment Bill deleting those clauses in the Constitution which provided that no Minister could hold office for longer than 12 months unless he or she became a member of Parliament. The bill is seen as seeking to allow for the appointment of Africans and unelected people to the Cabinet of President De Klerk. 4/

15. On 15 and 16 May 1992, the second plenary session of CODESA was held with the same participants as at CODESA I, to consider the reports of the five working groups. The reports indicated that progress and consensus had been reached on the following issues:

(a) A two-phased transition to democracy involving the establishment of a multi-party, non-racial Transitional Executive Council (TEC) which would level the political playing field and prepare the country for elections during the first phase, and the election by proportional representation and universal suffrage of an assembly of deputies which would elaborate and adopt a new constitution during the second phase of transition. This parliament would also hold normal legislative powers in the interim;

(b) The agreement "in principle" to the reincorporation of the so-called independent homelands into a new South Africa and the restoration of South African citizenship to their residents. The Bophuthatswana administration stated its preference for non-incorporation. None the less, legislation which will provide a legal framework for the reincorporation of the homelands is already being planned by the South African Government. 5/ As a forerunner to this legislation, Parliament has passed a bill allowing for the rationalization and amalgamation of "own affairs departments" into a general affairs department. The merger would involve services such as health and education acquiring a more regionally structured form of administration;

(c) The placing of all security forces under the control of the transitional governmental structures in order to ensure their accountability to the public, and the need for all parties to recommit themselves to the letters and spirit of the National Peace Accord. 6/

16. The working group on the constitution-making process reported its inability to reach agreement on a number of issues which could not be resolved by CODESA II. 7/ The issues include the nature and functions of TEC, whether it should be legislative or advisory, and the percentage of proportional representation on the Council. Other issues are the percentage of votes needed in the interim Parliament to approve constitutional provisions dealing with division of powers and, more specifically, with "regionalism", and the establishment of a Senate where minorities could be disproportionately represented. This second issue is, in fact, closely linked to the first and to whether power should be given to minorities to block important decisions on constitutional reforms.

17. This deadlock prevented consideration of the reports of the other working groups. Although participants mandated CODESA's Management Committee to resolve the outstanding issues, no tangible progress was made and in June 1992, the negotiation process at CODESA eventually broke down when ANC and its allies withdrew from the talks in protest against the Boipatong incident of 17 June. 8/

18. In spite of the breakdown of multi-party talks at CODESA, all the parties remained seized with the question of transition to a democracy in which the civil and political rights of all South Africans could be enhanced. Bilateral talks were held between the Government of South Africa and other parties such as AZAPO, CP and PAC in an effort to involve them in the negotiations. The Government and ANC had also continuously held a series of talks in an attempt to break the impasse. This resulted in the 26 September 1992 Record of Understanding 9/ between the Government and ANC, paving the way for a return to multilateral constitutional negotiations.

19. On 5 and 6 March 1993, delegates from 26 political groups in South Africa, including those which did not participate at CODESA such as PAC and CP, met for a multi-party planning conference. This was the most representative gathering of political leaders in South African history and, in a resolution adopted by all the parties except CP, which abstained, the participants agreed to start new multi-party negotiations not later than 5 April. The talks resumed on 1 April and on 7 May 1993, the parties agreed that the country's first non-racial elections would take place within 12 months, a significant breakthrough in the constitutional talks. The 26 parties also agreed to set an exact date for elections within four weeks and that the poll would take place no later than April 1994. This was later confirmed to be 27 April 1994, subject to the agreement by the Inkatha Freedom Party (IFP) and other conservative parties at a meeting to be held on 26 June.

20. The decision amounts to a commitment to seek rapid agreement on a constitution to govern South Africa in the transition to full democracy, as well as the fundamentals of a final constitution in which the fundamental human rights of all South Africans would be enshrined. An outline

constitutional deal agreed early this year in bilateral negotiations between the Government and the ANC envisaged a multi-party government of national unity which would rule the country for five years, with limited devolution of powers to the regions. Parties that receive a certain minimum number of votes 10/ would be entitled to participate in the coalition cabinet. At the end of the interim government, elections would be held under a new constitution which would have been adopted.

21. The renewed multi-party negotiations, which will basically consider the outline constitutional deal, may go on for a few months. If consensus is reached, a TEC could be in place by the autumn. The TEC is to take decisions on many issues including the role and control of the security forces, State media, and electoral mechanisms such as an independent media commission and electoral commission.

22. In spite of these positive, albeit slow, political developments in South Africa, some deeply disturbing problems exist which have the capacity to derail the process of transition to democracy in the country. Chief among these is the spate of violence which, it will be recalled, precipitated the withdrawal of the ANC and its allies from CODESA II following the massacre at Boipatong on 17 June 1992. Violence was also behind the recent arrest of key officers of PAC by the South African Government, an act which prompted the withdrawal of PAC from the negotiating forum portending adverse consequences for the march to an all-inclusive democracy.

II. THE VIOLENCE SYNDROME

23. At the end of the first phase of its mission to South Africa in January 1993, the Commonwealth Observer Mission (COMSA) reported that South Africa, with a homicide rate of 50 per 100,000 inhabitants, is the most violent country on the face of the earth. 11/ What this means in effect is that South Africa is the world's foremost country where the right to life, as provided for in article 6 (1) of the International Covenant on Civil and Political Rights, is undermined. This assessment is corroborated by recent figures on the phenomenon emanating from the country. According to statistics compiled by the National Peace Committee 12/ for the period January to October 1992, deaths and serious incidents of violence attributed to political motives ranged from 7,000 to 11,000 and 15,000 respectively while in other cases of violence, South Africa had 30,000 deaths, 115,000 serious crimes, 500,000 incidents of housebreaking and 120,000 incidents of armed robbery. 13/

24. The statistics given by the South African Police (SAP) indicate that there had been about 18,000 murders in South Africa in 1992 (the worst year for violence so far) out of which 2,400 were politically related 14/ while figures from the Human Rights Commission (HRC) indicate that by the end of 1992, politically motivated violence would have resulted in a total of 3,600 deaths, equivalent to an average of 10 deaths a day for every day of the year or 13 per cent of all violent deaths during the same period.

25. In South Africa, the phenomenon of political violence which impairs the people's rights to life and security takes one of several forms. It could be sabotage, such as the bombings in 1991 of the magistrates court at Sabie

(Eastern Transvaal), of an electricity substation in the Orange Free State, of the offices of the Congress of South African Trade Unions (COSATU) in Pretoria and of a multiracial school in Klerksdorp (Western Transvaal). It could involve attacks on persons perpetrated either by whites on blacks, such as the January 1992 attack by a group of whites at Elandsfontein (near Johannesburg) on a 60-year-old black man, or by blacks on whites such as the February, March and May 1993 wave of attacks in the Vaal Triangle by black gunmen in which a number of whites were killed. But in most cases, politically motivated violence involving attacks on persons have taken the form of blacks on blacks. Examples of this include 17 June 1992 Boipatong incident involving hostel residents and shack dwellers in which 48 people were killed, as well as the intermittent incidents involving hostel residents and householders in the Alexandra area.

26. The attacks on persons in the prevalent culture of violence and infringement of the rights to life in South Africa have also been directed at security force members. According to the 1992/93 edition of the Race Relations Survey 15/ five policemen were murdered during the first three days of 1992. By the end of that year, a total of 226 police officers had been murdered. 16/ Political activists have equally been targets of attacks. Human Rights Commission of South Africa (COMSA) figures put the death toll of political activists at 100 assassinations as at 10 December 1992, among whom was Mr. David Webster of Witwatersrand University. This year, the most prominent victim of attacks on political activists was Mr. Chris Hani, the former Commander of the ANC military wing and, until his death last April, Secretary-General of SACP. The endemic violence in South Africa has also found expression in the transport sector in the form of the "taxi war" in the Western Cape between rival taxi associations, as well as attacks on railway commuters (train violence) which, in the first four months of 1992, led to the death of 135 people and caused injury to 240 others. 17/

27. Although levels of political violence are reported to be particularly high in the Witwatersrand/Vaal and Natal/Kwazulu regions (known as the Vaal Triangle), its occurrence is widespread and leaves few areas untouched. COMSA is of the view that the causes of violence and the attendant violation of the right to life in South Africa are "complex and multifaceted" 18/ while in the observation of the Goldstone Commission, 19/ the causes are "many and complicated". 20/ None the less, there is consensus of opinion that its origin is undoubtedly the system of apartheid which through the repressive apparatus used to enforce the policy has, over the years, generated internal conflicts and pressures. These conflicts and pressures have naturally sought expression through various sources.

28. One of the sources of violence which has adversely affected the people's right to life, particularly in the Natal and Reef areas, is the conflict between the supporters of ANC and IFP. This conflict manifests itself at the local or regional levels where the members of the parties engage in violence and intimidation to establish and secure claims to a specific geographic area as their political base. Who initiates the violent confrontation remains clouded by conflicting analyses as neither party loses a public opportunity to blame the other for instigating violence.

29. However, a research organization (CASE), in its analysis of press reports, holds IFP responsible for 51 per cent of acts of violence in the Reef area during 1990/91, the police for 23 per cent, ANC for 4 per cent and other groups for 23 per cent. 21/ In direct contradiction to these findings, a police analysis 22/ for a similar period blamed ANC for 86 per cent and IFP for only 12 per cent of attacks when only aggressors could be identified, and 56 per cent and 40 per cent respectively when both aggressors and victims could be identified. Other attacks were blamed on AZAPO and PAC. The rivalry between IFP and ANC is also known to be behind the extremely violent exchanges between shack dwellers, householders and hostel dwellers in townships such as Thokoza, Alexandra, Soweta and Boipatong.

30. Socio-economic factors are another source of violence. High unemployment, inadequate housing and the lack of basic services often pit one group against another. The black taxi industry, for instance, is a new industry in South Africa creating 300,000 new jobs and accounting for a revenue of about 2 billion rands per annum. 23/ Competition for control of routes and ranks has therefore become intense and ruthless and has frequently spilled over into violence between rival factions and with the police. Sometimes the factions lay claim to political allegiance in an effort to legitimize themselves and promote support, but indications are that the wars are essentially those of turf. To date 43 journalists have been killed in the line of duty.

31. In South Africa, the easy access to high-powered firearms provides ammunition for and raises the tempo of violence. According to some reports, individuals now possess 2.5 million licensed weapons and an equally large number of unlicensed firearms which find their way into the country as a result of a growing cross-border traffic in weaponry, particularly from Mozambique and Swaziland. In addition to this highly volatile development is the existence in most townships of certain well-armed "self-defence units" 24/ of dubious legitimacy and right-wing "commandos" in some, mostly rural, areas of the country.

32. Although hostility between ANC and IFP supporters, socio-economic factors and the easy access to and availability of firearms, including hand grenades, are acknowledged as sources of violence in South Africa, there is a growing sentiment that these factors fail to explain fully a significant proportion of the violence. Indeed, there is strong evidence that a major source of the violence is the South African regime which, in accordance with article 6 (1) of the International Covenant on Civil and Political Rights, ought to be the guarantor of the people's right to life and property. There have, in fact, been frequent allegations of a Government-sponsored "third force" using violent tactics to destabilize political opponents as well as the transition process itself. This third force has been accused of organizing "hit squads" responsible for the assassination of political activists.

33. Suspicions that the South African Police had not been acting efficiently to prevent violence was confirmed in the affidavit sworn by two priests who said they had seen policemen watching as 20 black men armed with pangas and axes boarded a train in Soweto in January 1992, following which six people were killed and several others injured. 25/ Similar suspicions that the police were frequently involved in acts of violence have been strengthened by

the April 1992 judgement of the Supreme Court of Natal which found five policemen guilty of carrying out a massacre in which 11 black villagers were killed in 1988. 26/ Furthermore, recent newspaper reports allege that the present head of South African military intelligence was personally implicated in the murder of anti-apartheid activist Mathew Goniwe and three colleagues in 1985, and that he had requested permission from the State Security Council to carry out the operation. 27/

34. Incidents in which members of the South African Defence Force (SADF) attacked residents of squatter camps attest to the Government's involvement in violent acts, as were the disclosures made by Dr. Jonathan Gluckman 28/ to the effect that of the 200 cases of post-mortem he performed on prisoners, 90 per cent showed that they had been killed by police. There are also reports of further collusion between police and perpetrators of violence such as white right-wing groupings or certain homeland police forces, 29/ while some accounts implicating the Government in the violence refer to mercenary groups such as Battalions 31 and 32 and the Koevoet, who participate in the implementation of apartheid policies and are usually entrusted with the most violent missions. Additional attention was focused on the issue of violence by the reports of Amnesty International 30/ and that of the International Commission of Jurists, 31/ both of which highlighted the role of the security forces in fomenting violence and criticized the Government's inability to take sufficiently firm steps to prevent the violence.

35. The concern caused by these proofs of State-sponsored violence and violation of the people's right to life coupled with recent anti-apartheid reforms have resulted in the establishment of commissions to investigate crimes committed by members and specialized agencies of SADF and the Police. Notable among these are the Harms Commission which in 1990 investigated and precipitated the disbanding of the Civil Cooperation Bureau, a secret military unit used against anti-apartheid activists; the May 1992 one-man committee comprising Mr. R.W. Wise, who inquired into allegations that members of the Police either planned or instigated violence in the Vaal Triangle area; and the 18 May 1992 Commission headed by Air Force Lt. General Pierre Steyn which probed alleged involvement of SADF intelligence in "dirty tricks" and violence. This commission was set up following the seizure by the Goldstone Commission (discussed in detail below) of files showing that military intelligence, in 1991, had hired a convicted murderer to discredit the armed wing of the ANC.

36. A salutary development resulting from these commissions of inquiry was the adoption of specific measures to redress the situation. In addition to the disbanding of the Civil Cooperation Bureau, sweeping changes were announced in August 1992 by the South African Law and Order Minister, Mr. A. Kriel, aimed at restoring the credibility of the South African Police. The changes included the setting up of a new body to investigate crimes allegedly committed by the Police; the resignation or early retirement of a total of 18 of the 55 generals from the Police and the rectification of the discriminatory practices which had prevented black members of the police force from being promoted.

37. Within the broader perspective of preventing violence between the different groups in South Africa and guaranteeing their right to life and

security, a new police unit, the Internal Stability Division, was created in March 1992. The highly mobile, non-racial squad would be deployed to patrol areas of high unrest and intimidation. A Police Board has also been established to "correlate the interests of the community and those of the South African Police" 32/ while a special task force comprising some of the force's top intelligence officers came into being, also in 1992, with a mandate to stop the major cross-border gun traffic into South Africa from Mozambique and Swaziland. In addition, the disbanding of the discredited Battalion 31 and the Koevoet has been effected, although this action has been criticized as insufficient on the grounds that its members had merely been redeployed to other units which are still deployed to the townships.

38. But perhaps the greatest step taken to end the chronic violence in South Africa, thereby safeguarding the people's right to life, is the signing of the National Peace Accord by a broad spectrum of political parties and other interest groups on 14 September 1991. The Accord, whose signatories include the Government, ANC, IFP and even trade unions, has been described by COMSA as "one of the few truly consensual documents to have emerged in South Africa over the past two years". 33/ According to COMSA, "its provisions are comprehensive, applications far-reaching and its relevance extends well into the future". 34/

39. At the national level, the National Peace Committee tops the list of the National Peace Accord structures. It comprises the top leaders of all the signatories to the Accord under the chairmanship of Mr. John Hall and its key preoccupations are to ensure that the Accord works and to resolve disputes. Although a difficult task, the Committee is credited with resolving the dispute between the leaders of IFP and ANC following the ANC leader's reference, in a speech to the United Nations Security Council to IFP as a surrogate of Government.

40. The second national structure of the Accord is the National Peace Secretariat under the chairmanship of Dr. Antoine Gildenhuys. The Secretariat sees to the day-to-day functioning of the Accord, particularly the establishment of regional and local dispute resolution committees. The third structure is the Commission of Inquiry regarding Prevention of Public violence and Intimidation. Called the Goldstone Commission, after its Chairman, Mr. Justice Richard Goldstone it is a permanent Commission mandated to investigate the nature and causes of violence, identify those responsible and recommend actions to the State President. Other structures of the Accord are the special criminal courts at the regional level and the justices of peace at the local level.

41. These structures have indeed helped to put the phenomenon of violence in South Africa in perspective. The Goldstone Commission, for instance, has, through its series of inquiries, 35/ been able to highlight the role of the various political groups in the perpetration of violence and has equally put forth recommendations to prevent the violence. These include the fencing of hostels, the banning of the carrying of weapons in public and effective police presence in local communities. However, these recommendations are yet to be implemented. The National Peace Committee and the regional and local dispute resolution committees, on the other hand, have served as important fora for the reconciliation of South Africa's peoples since, within their framework,

men and women from vastly different walks of life, racial and ethnic backgrounds and political persuasions could now sit around a table to resolve their differences.

42. While the fundamental reasons for violence and the violation of the right to life still remain in South Africa, and while there are fears that violence may increase as the date for multiparty and non-racial elections draws closer, the apparent downward trend in politically motivated violence (from a monthly average death toll of 292 in 1992 to 166 in February 1993, 36/ indicate that these National Peace Accord structures and other steps taken to prevent violence between the various political groups and promote the right to life have had an impact, however minimal. But even after the election of a democratic Government, violence and the violation of the right to life will continue to be a feature of South African society so long as the socio-economic inequities bequeathed by apartheid endure.

III. ECONOMIC AND SOCIAL RIGHTS

43. Apart from the denial of political rights and the extreme violation of the right to life occasioned by the phenomenon of violence, the pursuit of the doctrine of apartheid in South Africa ensured segregation along racial lines in everyday life. Such an arrangement inevitably created gross inequality in the enjoyment by all South Africans of the right to education, health, housing, employment and remuneration, in contravention of article 23 of the Universal Declaration of Human Rights, articles 7 (a) (i), 9, 12 (i) and 13 (i) of the International Convention on Economic, Social and Cultural Rights, as well as article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination.

44. An insight into some of the social and economic wrongs caused by apartheid can be gained by examining a few sectors. In education, for instance, where a philosophy of Christian National Education supportive of apartheid ensured the administration of education through 19 departments on the basis of race and ethnicity, available figures indicate that nearly 8 million of the country's 24 million blacks are functionally illiterate. 37/ In addition, an estimated 18 per cent of black children (over 6 million) 38/ aged between 6 and 14 are outside the formal education system at a time when the Government continues to spend four times as much on educating a white child as it does on a black child.

45. Further evidence of inequality can be found in the provision of educational facilities, leading to serious deficiencies in black schools in general; the situation varies depending on which of the 14 departments has responsibility for such schools. In 1992, the number of pupils per teacher in black schools varied from 14:1 in schools under the administration of the Department of Education and Culture to 36:1 in the Department of Education and Training schools. The pupil/classroom ratio remained high in all black education departments, exceeding 60:1 in some primary schools. 39/ The severe lack of resources and qualified teachers in black schools have invariably resulted in low matriculation scores on the part of the black students, thereby adversely affecting their right to education. In 1992, for example, only 44 per cent of black students passed the matriculation

examination at the end of high school compared with 98.7 per cent of white students, while only 10 per cent of black students who took the test scored high enough to be considered for university admission. 40/

46. Inequalities also exist with regard to the enjoyment of the right to employment. The majority of those who make up the 40 per cent unemployment figure are undoubtedly blacks while an estimated 3 million young blacks make up what Time magazine calls "a lost generation of virtual unemployables". 41/ The lack of access to employment by a majority of blacks in South Africa is compounded by unequal pay when they do succeed in securing a job.

47. According to a survey on income disparity conducted between February 1990 and January 1991 by the South African All Media and Products research firm, the average monthly household income of blacks was 779 rands; of coloured people, 1,607 rands; of Indians, 2,476 rands; and of whites, 4,679 rands. 42/ These figures were corroborated by the report of the Bureau of Market Research at the University of South Africa which revealed that the average annual household income of whites in rural towns in 1991 (R63,844) was six times that of blacks (R10,785). 43/ This finding may not be unconnected to the fact that as at the month of October, 1991, black South Africans owned only 2 per cent of an economy whose gross domestic product (GDP) at current prices for that year amounted to 296,666 billion rands. 44/

48. In the housing sector, Mr. Wilsey Kilian and Mr. Johan Sayman, two building economists, in research conducted between 1986 and 1992, found continued racial inequality in the number of houses built, the value of such houses and their quality. 45/ Figures for 1991 indicate that the housing backlog in urban areas in South Africa, a direct result of apartheid laws of segregation, was 1.3 million units while in 1991, only 33 per cent of the rural population of South Africa had housing of an acceptable standard. 46/

49. For the black majority in urban areas, enjoyment of the right to housing has been in the form of hostel dwellings. By June 1992, there were 240 such hostels for blacks countrywide, with 456,202 beds. But according to estimates by the Congress of South African Trade Unions (COSATU), in certain areas there are as many as six residents per hostel bed. 47/ Inadequate housing has resulted in an estimated 7 million blacks, 18 per cent of the population of 38 million South Africans, living in informal settlements comprising shacks made of corrugated iron, plastic sheets and cardboard. 48/ Like Crossroads, the notorious squatter camp near Cape Town, these settlements are populated mostly by impoverished peasants from the drought-devastated countryside seeking jobs.

50. The right to health has also been subjected to gross inequalities as a result of the apartheid policy in South Africa. According to the South African Institute of Race Relations, health indicators of blacks show that their health status continues to be far poorer than that of coloured people, Indians and whites. In 1990, for example, infant mortality rates per 1,000 live births in South Africa showed that blacks had the highest rate (52.8) followed by coloureds (28), Indians (13.5) and whites (7.3). 49/ In addition, although membership in medical aid schemes

stood at 23 million in December 1990 with 6.2 million people receiving benefits from such schemes, only 5 per cent of blacks enjoyed such membership. 50/ Disparities also exist in welfare payments receipt for the year 1990. Usually calculated on a per capita basis, blacks received 100 rands; coloureds, 146 rands; Indians and whites 200 rands. 51/

51. Although the majority of the disadvantaged people of South Africa continue to live without the basic amenities necessary for their socio-economic advancement, the reform process begun in 1990 and directed at the total dismantling of apartheid has precipitated some steps to ensure the enjoyment of social and economic rights by all South Africans irrespective of race, religious and/or political belief.

52. In February 1990, the right to life for a certain category of prisoners was guaranteed with the moratorium placed on executions while the Criminal Procedure Act was amended, making the death penalty no longer mandatory. Moreover, as agreed in the Pretoria Minute, some 1,150 political prisoners had been released by September 1992 while at the end of August 1992 more than 5,236 exiles had returned to South Africa under the auspices of UNHCR, plus an additional 7,226 under the auspices of the now disbanded National Coordinating Committee for the Repatriation of Exiles. 52/ Not all of these exiles and refugees have returned due to the difficulties faced by those who had returned home earlier.

53. The abolition of the four high visibility instruments of apartheid, mentioned earlier under the examination of equal political participation, was followed in March 1991 by the publication by the South African Government of the "White Paper on Land Reform". In June 1991, Parliament passed the Abolition of Racially-based Land Measures Act, thus providing for the repeal of the Black Land Act and all other provisions regarding the acquisition and exercise of land rights according to race. Hitherto, 87 per cent of agricultural land had been reserved exclusively for white exploitation. An Advisory Commission on Land Allocation created under the Act was constituted in November 1991 to make recommendations to the State President on reallocations of land to communities which had previously occupied such land. Thirty-one communities are known to have made representations to the Advisory Commission which may soon be invested with powers to decide on land claims. 53/ Meanwhile, a moratorium on the sale of "State-owned" land being investigated by the Commission was declared on 7 April 1993 by the Government.

54. The Group Areas Act of 1966 and the Local Government Affairs Free Settlement Act of 1988 were equally repealed under the Abolition of Racially-based Land Measures Act of 1991. Similarly, the deregulation of franchise, mobility, residential rights, welfare benefits and other services provided by the State was effected through the Population Registration Repeal Act of 1991.

55. Steps have also been taken to improve workers' rights. In July 1992, amendments to the Basic Conditions of Employment Act of 1983 and the Unemployment Insurance Act of 1966 brought farm workers under the ambit of the Acts for the first time. In November 1992, an agreement was reached between COSATU and the Government detailing labour reforms for farm and domestic

workers. In terms of the agreement, the Government would promulgate the amended Unemployment Insurance Act not later than 1 January 1993 and the amended Basic Conditions Employment Act not later than March 1993. 54/ The Government would also introduce draft legislation to extend the Labour Relations Act and the Wage Act to farm workers by the end of 1992 55/ with a view to passing the legislation in 1993.

56. The Government also undertook to extend the Basic Conditions of Employment Act to domestic workers by the second half of 1993 and to extend the Unemployment Insurance Act and the Workmen's Compensation Act to them by 1994. Committees would investigate the extension of the Labour Relations Act and the Wage Act to domestic workers and report to the Minister of Manpower by April 1993 and October 1993 respectively.

57. In August 1992, the Government announced that the National Manpower Commission would be restructured to comprise one-third business, one-third labour and one-third government representatives. Discussion between the three parties over the Commission's restructuring had been under way since the Laboria Minute was signed in September 1990. It was expected that the new Commission's brief would include consolidating the Labour Relations Act of 1956, clarifying strike laws, taking up matters raised by the report of the International Labour Organization's fact-finding mission which visited the country in February 1992, and serve as a labour reconciliation commission.

58. Another landmark on the road to improving the rights of workers in the course of the transition to democracy in South Africa is the launching of the National Economic Forum in November 1992. Conceived as a think-tank to bring labour, business and Government together to work out integrated economic strategies, its launch followed demands for its establishment by COSATU. Its agenda includes issues concerning unemployment, exchange controls, interest rates, inflation, the taxation system, nationalization, privatization and the question of economic power being in the hands of so few corporate giants. 56/ COSATU hopes that before a constituent assembly drafts a new constitution, negotiated workers' rights, under the auspices of the National Economic Forum and the National Manpower Commission would have been put in place.

59. In the field of education, initiatives have also been taken to promote equal right to education. During 1992, aspects of policy proposals contained in the Education Renewal Strategy and Curriculum Model documents published in 1991 were implemented. These included the devolution of certain powers to local school governing committees, the creation of semi-privatized model "C" schools in former white schools, the removal of racial restrictions and language policy changes in all schools administered by the Department of Education and Training, a common certification authority for all students writing the Standard 10 and National N3 examinations at the end of 1992, the upgrading of colleges of education and an extensive process of rationalization in the teaching sector. 57/

60. Speaking in July 1992, the South African Minister of Education, Mr. Sam de Beers, said that a single non-racial system of education was expected to be in place within 18 to 24 months. 58/ In the interim, however, there has been some progress toward redistribution of resources

within the educational system: the ratio of per capita expenditure on black education (outside the 10 homelands) to expenditure on white education was reduced in 1991-92 to 3:1. 59/ Spending on black education is expected to rise by 35.5 per cent between 1991-92 and 1992-93, compared with an increase of 10 per cent in the white education budget. 60/

61. In the area of health and welfare, a social assistance bill was published in February 1992. The bill sought to amalgamate all legislation relating to social assistance payments into one Act and to provide a uniform pension system for all South Africans. In March 1992, the then Finance Minister, Mr. B. du Plessis, announced an increase in the monthly old-age pensions for blacks from 224 rands to 293 rands; for coloureds and Indians from 263 rands to 318 rands; and for whites from 304 rands to 345 rands. 61/ The ratio of white to black pensions was thereby reduced from 1.35:1 to 1.18:1. Mr. du Plessis said that social pensions could not be equalized immediately but he undertook to ensure full parity in the 1993-94 budget.

62. During the same budget speech in March 1992, Mr. du Plessis announced that the Government was to spend 9.93 billion rands on health services in South Africa in the 1992-93 financial year, representing an increase of 22 per cent over the previous year. Emphasis was to be placed on the provision of primary health care and in ensuring the people's right to proper nutrition, given that as at March 1992, an estimated 66 per cent of the black population of South Africa lived below the poverty line. In September 1992, the Minister of National Health, Dr. Rina Venter, announced that health services were to be rationalized and that legislation was being prepared to phase out "own affairs" departments and to allow for the formation of a single National Department of Health. 62/

63. Measures to facilitate the right to housing for the disadvantaged groups in South Africa have also been taken. In November 1991, the National Housing Forum was set up at a meeting of political parties and other groups with a stake in housing in Randburg (near Johannesburg). 63/ The forum, which was officially launched in August 1992 has, as its main objective, the formulation of a national housing accord. In 1992-93, budgeted spending by the Government on housing and related infrastructure is put at 2.15 billion rands. 64/ Of this amount, 295 million rands have been set aside for the upgrading and conversion of hostels. By August 1992, negotiations in this regard had reportedly been finalized at 38 hostels while progress was at an advanced stage at 65 others. 65/

64. The South African Government has also taken steps to uphold some international human rights instruments. On 29 January 1991, the Government signed the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the Convention on the Political Rights of Women and the Convention on the Nationality of Married Women. The Government has also acceded to the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

65. On 2 February 1993, the Government took a further step towards ensuring the enjoyment of economic and social rights by all South Africans when it

unveiled its draft Bill of Rights. 66/ The draft bill, which seemed specifically designed to outlaw the gross human rights abuses committed by the ruling National Party during its over 44 years in power, supports principles such as the protection of human dignity, equality before the law, freedom of speech and assembly and the right of citizens to a passport. It emphasizes property rights and security, the rights of employers set alongside those of employees, and includes a reference to the death penalty for certain serious crimes as well as detention without trial. The bill has, however, come under criticism for not addressing measures directed at righting the economic wrongs of apartheid such as forced expropriation of land, and for not guaranteeing the enjoyment of other rights such as the right to employment, housing health care and education. 67/

66. Another indication of the Government's willingness to promote the enjoyment of social rights was the announcement on 5 February 1993 of plans to introduce reforms to combat sexual discrimination and repeal laws which hamper the rights of women. New laws will address wives' rights to share in family assets, the right to guardianship of their own children, protection against dismissal at work due to pregnancy and retirement, together with male colleagues, at 65 instead of 60. 68/ A law to address domestic violence is also being considered.

67. In spite of the efforts at reform undertaken since 1990 to ensure equal political participation, promote the people's right to life through the prevention of violence and ensure the non-discriminatory enjoyment of economic and social rights by all South Africans, certain factors are known to be impeding the transition to democracy in the country.

IV. THE IMPEDIMENTS

68. In a society in which people have been forced to articulate their sentiments, hopes and frustrations by resorting to violent means, the phenomenon of violence is, undoubtedly, a key impediment to the full democratization of South Africa and the enjoyment of fundamental human rights by its people. Indeed, in spite of the National Peace Accord, the low-intensity war between ANC and IFP supporters has continued, PAC still refuses to renounce its armed wing while investigations into State-sponsored violence continue.

69. The spectre of violence has been heightened by the phenomenon of "war talk" by some leaders of the various political groups in South Africa. Apart from the Inkatha leader, Chief Mangosuthu Buthelezi, who has vowed to make it impossible for ANC to act as the sole representative of the black people, PAC, in January 1992, threatened to set up a legal private army to defend the masses from State-sponsored violence and, in the same month, the leader of the Boerestaat Party, Mr. Robert Van Tonder, called on the Boer Republican Army to engage in guerilla attacks against the Government. Such utterances have led to fears that the transition to democracy may be disrupted by violence, particularly during the election campaigns, and that Chief Buthelezi may reject a settlement dominated by Mr. Mandela and President De Klerk by exercising the so-called Savimbi option, a reference to Angola rebel leader Jonas Savimbi who went back to civil war when he was defeated in Angola's first free elections last September.

70. The activities of radicals on the left and right of the political spectrum could also hamper progress towards the total eradication of apartheid. The radical camp is made up chiefly of revolutionaries, ideological purists and firebrand socialists/conservatives. On the left of this camp are PAC, AZAPO and the youth. Estimated at 1 million strong or more, black youths tend to be unemployed, have been caught up in township violence for years and are frustrated by the failure of the negotiations, thus far, to change the political status quo in South Africa.

71. In March 1993, the Youth League of ANC rejected the milestone compromise for a five-year interim Government of National Unity. 69/ The Youth League called for a return to "ungovernability", an earlier strategy of using protest and violence to cause Pretoria's white rulers to change. Exasperated by ANC's 1990 decision to suspend military action pending reforms, many grass-roots members are reported to be applauding recent attacks on white civilians by PAC's armed wing while more than a few others have quit ANC to join PAC. 70/

72. On the right of the radicals' camp are the pro-apartheid, white supremacist, anti-communist groups. These include the Stallard Foundation with links to white supremacist groups around the world, the Western Goals Institute which claims to be devoted to protecting the Western way of life by offering self-defence training to white South Africans, and a number of rightist paramilitary organizations. As at 1992, the list of right-wing armies said to be a menace to State security includes the Afrikaner Monarchist Movement, Blanke Veigligheid, Blanke Weerstansbewegnig, Boer Republican Army, Boere Kommando, Foundation for Survival and Freedom, Ku Klux Klan, Orde Boervolk, Pretoria Boere Kommando, Volksleer, Weu Kommando and Wit Wolwe. 71/ The activities of the radical groups is worsening the climate of racial hatred in South Africa. It is also fanning the embers of political intolerance to the detriment of rapid and full democratization of the country.

73. Another obstacle to the transition to a democratic South Africa in which international human rights instruments are observed, respected and promoted is the resilience of old apartheid ideas and practices which, in spite of the reform process begun in 1990, live on. One evidence of this can be found in the Government's position in the constitutional negotiations. For an interim constitution regulating a unity government, President De Klerk is said to have proposed that real power be vested in an Executive Committee comprising party leaders, thereby making the Presidency a largely ceremonial job. 72/ Similarly, President De Klerk is demanding clear guarantees of power-sharing in the final constitution (although he has denied he is trying to secure a permanent white vote) and the establishment of autonomous powers and boundaries of regions by negotiators rather than by the elected constituent assembly. 73/

74. A second manifestation of the enduring nature of old apartheid ideas is evident in the conceptualization of the Government's proposed Bill of Rights and in some of the provisions of the Acts so far promulgated repealing apartheid legislation. As observed earlier the proposed Bill of Rights, while providing for private property rights designed essentially to protect whites, does not guarantee the right of everyone to employment, housing, health care

and education. In fact, even the Government's plan to shift to a single education system based on restructuring along regional rather than racial lines reflects the problem of old apartheid ideas as the new structure could entrench regional rather than racial inequalities and privileges.

75. Some provisions of the apartheid reform bills also reflect this burden of old apartheid ideas. For instance, the Abolition of Racially-based Land Measures Act of 1991 did not affect land in the so-called homelands where restrictive legislation, adopted during the apartheid era, is in existence. It grants recognition of deeds to land acquired by white South Africans under apartheid, thereby making it impossible to redress the accumulated injustices of the past until, perhaps, after the adoption of a democratic constitution. Moreover, chapter III of the Land Measures Act, according to which residents of a neighbourhood could set norms and standards to be followed by all who live in it, is widely seen as protecting the interests of whites and placing obstacles in the path of people of other races who may wish to own property in those areas.

76. Other legislation with old apartheid ideas include the Interception and Monitoring Prohibition Act of 1992, which allows the Attorney-General to empower the Police, SADF or agents of the National Intelligence Service to intercept mail, tap telephones and bug rooms, and the insertion of a clause in the Police Amendment Act of February 1992 conferring full police powers (including search and arrest) on members of homeland police forces when on "cross border" operations.

77. The reluctance of those who had benefited from the discredited apartheid system to accept the inevitability of change is yet another impediment to the democratization of South Africa. Among this group are some homeland governments which have rejected reincorporation into a new South Africa, some elements of the security forces, white farmers, right-wing groups and some members of the traditional authority, fearful and uncertain of their role in the new order.

78. In 1992, these groups were represented by a body called the Concerned Group of South Africans whose members included IFP, Ciskei, Bophuthatswana, as well as white groups on the right of the political spectrum such as CP. On 7 May 1993, however, a new all-white group called the Africaner Volksfront (Afrikaner People's Front) was formed under the leadership of the "Committee of Generals", 74/ and comprising all South Africa's white separatist political parties, labour unions, farm organizations and paramilitary groups. They are demanding a homeland carved from the north-eastern province of Transvaal as an independent refuge for white South Africans who share their language and conservative values. Given the group's considerable potential support among the largely right-wing armed forces, its formation has heightened the danger of fragmentation and dissidence as South Africa works towards democratization.

79. An additional impediment to the transition to democracy in South Africa is the absence of any democratic experience among the vast majority of the population who have never voted. Lack of understanding of the electoral processes could therefore have a negative impact on the entire exercise.

Added to this is the persistent weakness of the South African economy which is witnessing its greatest recession in recent years.

80. Indeed, in 1991, the country recorded a negative growth rate of 0.5 per cent while in 1992 a 1 per cent contraction was envisaged. 75/ The reduction of real GDP per capita by 2.7 per cent in 1991 and the widening of the gap between actual economic performance and the minimum growth rate needed to prevent dislocations may therefore be behind the apparent lack of political will on the part of the Government to channel adequate resources towards eliminating inequalities in the socio-economic sector. None the less, all these impediments may soon be eliminated if current trends in international reaction to developments in South Africa persist.

V. THE ROLE OF THE INTERNATIONAL COMMUNITY

81. The international community which had sought the eradication of apartheid through the application of comprehensive sanctions and other measures, was, in accordance with the Programme of Action of the 1989 United Nations Declaration on Apartheid and its Destructive Consequences in Southern Africa, to remain seized of the issue of a political solution of the South African question through the tireless efforts of its Special Committee against Apartheid. It was also to set up all-round support for the opponents of apartheid and ensure that existing measures were not relaxed until there was clear evidence of profound and irreversible changes.

82. Since the 1990 reform process and the adoption by the United Nations General Assembly of resolution 46/79 A of 13 December 1991 calling upon the international community to resume cultural links with South Africa and review restrictive measures as warranted by positive developments in the country, most countries have taken measures to relax economic sanctions. This is in spite of the fact that an interim government, a new constitution and the holding of free and fair elections which will mark the real beginning of an irreversible march towards ending apartheid are not yet in place.

83. Nevertheless, the international community has been playing a facilitating role in the democratic process in South Africa. In June 1992, the Organization of African Unity (OAU) Council of Ministers adopted resolution CM/Res.1386 calling on the United Nations Security Council to examine the issue of violence in South Africa and take appropriate action to put an end to it. The adoption of this resolution (765) followed an earlier visit to the country by an OAU delegation on 10 May 1992 to investigate township violence and observe proceedings at CODESA II.

84. In mid-September 1992, the OAU dispatched an eight-man team of experts to continue the work that the earlier mission had undertaken. The team now forms the nucleus of the OAU mission in South Africa within the context of Security Council resolution 772 (1992). 76/ Also within the context of the resolution, a United Nations Observer Mission has been established in South Africa. The Commonwealth and the European Community have also sent observers. The presence of international observers has, according to the Commonwealth Observer Mission, played a visible and widely acknowledged role in helping to calm the political atmosphere in South Africa.

85. The United Nations has been active, through UNHCR, its Trust Fund for South Africa and its specialized agencies, in facilitating, respectively, the return of South African exiles, the reintegration of former political prisoners into South African society, and in providing educational and training assistance to disadvantaged South Africans. In addition, the activities of the Special Envoys of the United Nations Secretary-General have been instrumental in pushing forward the peace process, while the recent extension of employment legislation to farm and domestic workers was no doubt facilitated by the report of the 1992 ILO Fact-Finding and Conciliation Commission which noted that the continued exclusion of these categories of workers from the labour statutes "poses one of the most serious problems affecting freedom of association in South Africa". 77/

86. Non-governmental and other organizations have also pursued efforts to provide support to victims of apartheid and monitor the political and human rights situation in South Africa. For example, the Africa Fund and some trade unions in the United States joined efforts in 1992 to persuade Crown Cork and Seal Company to reinstate 196 South African workers who had been fired after they had participated in a nationwide two-day work "stay-away" to protest political violence in black townships. Similarly, reports by Amnesty International and the International Commission of Jurists criticizing the South African Government's inability to stop violence could have contributed to the steps taken so far to stop violence between the various political groups in the country.

VI. CONCLUSIONS AND RECOMMENDATIONS

87. It should be stressed that it is the primary responsibility of the South African Government to maintain law and order, promote peaceful coexistence and protect lives and property; and it is the duty of every citizen to contribute to this peace. The role of the international community in the establishment of a democratic, non-racial South Africa, where the fundamental human rights of citizens are promoted and protected, can, of course, only be complementary to those of various political groups in the country. In fact, since the reform process commenced in 1990, there has been a perceptible change in the complexion of political, economic and social relationships within South Africa.

88. In the political field, a measure of equal participation in the political process of the country has been achieved through the various constitutional negotiations forums which have led to the announcement of a date for non-racial elections in April 1994. First steps towards ending the enduring violence in the country, thereby guaranteeing the people's right to life and security, have also been taken, leading to a general decrease in the incidence of violence, while the repeal of some discriminatory laws hold the promise of the enjoyment by all South Africans of their social and economic rights.

89. However, although these are positive and indispensable steps towards facilitating the transition to a democratic South Africa and ensuring the enjoyment of human rights in the country, the process of change through peaceful negotiations remain fragile. The process is threatened mainly by the phenomenon of violence and war talk, the restlessness of youths and the

activities of radicals on the right and left of the political spectrum, the resilience of old apartheid ideas, as well as the persistent weakness of the South African economy, among others.

90. In the light of these impediments and in order to facilitate the full democratization of South Africa, it is recommended that:

(a) Every effort be made to implement expeditiously all the recommendations of the Goldstone Commission on the prevention of violence;

(b) The structures of the National Peace Accord be strengthened through infusion of funds and relevant legislation while all those political groups outside the framework of the Accord should be enjoined to join the Accord. All parties must also adhere to the code of conduct prescribed by the Accord;

(c) In addition to the restructuring of the security services, consideration should be given to the reorientation of its members in order to free them from an apartheid mentality and make them more community oriented; the police force should recruit new members and should be demilitarized;

(d) A rehabilitation programme that would integrate them into civil society be considered for members of the discredited and now disbanded mercenary battalions rather than redeploy them to other security units;

(e) A comprehensive policy be formulated to address the issue of access to illegal weapons which will otherwise be a destabilizing influence well into the future;

(f) Leaders of various political groups imbibe the culture of political tolerance, cooperation and compromise so vital in any democracy and eschew the propensity towards war talk;

(g) Consideration be given to the adoption of confidence-building measures by the various political groups, such as joint political planks on issues of violence, to help erase the high level of mistrust which many decades of apartheid have precipitated;

(h) Immediate and extensive voter education be undertaken to avert the consequences of ignorance of the democratic process;

(i) Efforts be made to ensure the involvement of all players in the democratization of the country. This will allay the fears of smaller groups, such as the Congress of Traditional Leaders of South Africa, that principal parties take decisions without them. Inasmuch as non-inclusion may be informed by impatience over the tendency of such groups to attempt to hold the transition process hostage, exclusion of any group holds the potential danger, in the long run, of developing into a destabilizing factor;

(j) A comprehensive poverty relief programme be initiated. Such a programme, which will be directed at raising living standards, will also address such issues as improved income and wealth distribution, overhaul and

rationalization of existing subsidy schemes in the social sector, and ensure the equalization of access to amenities such as education, housing and health care.

91. Although the responsibility for achieving a just and lasting agreement through negotiation and the full resolution of the conflict in South Africa is primarily a matter for the people of that country, none the less, recognizing the importance of the complementary role of the international community, it is equally recommended that:

(a) The international community continue to maintain its presence in the country through its observer missions;

(b) International experts be identified to participate in the practical preparations for the elections, as well as to observe them;

(c) The international community, through the United Nations regional multilateral organizations or on the bilateral level, start preparations for massive assistance to address the economic and social disparities resulting from the long practice of institutionalized racism. Such a step will help fulfil the expectations of a populace who may be impatient to see political power translate into a more equitable distribution of resources.

(d) The international community and the relevant United Nations bodies and agencies should continue with, and even increase, their very commendable assistance in the field of education and training of the disadvantaged groups in South Africa. In addition to providing resources for the expansion of such training within South Africa in a post-apartheid era, the practice of offering places to them in foreign institutions should also be continued. Specific efforts aimed at addressing the skill requirements of those children of apartheid generally acknowledged as unemployable should be given urgent and special consideration.

92. Finally, given that the present report has been prepared by monitoring the developments in South Africa from a distance, it is hoped that the Special Rapporteur would soon have the opportunity to visit South Africa for an on-the-spot familiarization with the dynamics of the transition process as they impact on the enjoyment of the fundamental human rights of the people.

Notes

1/ This figure is provisional as some accounts put the number of South African exiles at over 40,000.

2/ The two judges are Mr. Justice Mahomed and Mr. Justice Schabort.

3/ Business Day, 19 February 1992.

4/ Cape Times, 19 September 1992.

5/ Star, 18 September 1992.

6/ The National Peace Accord, which is discussed in more detail in the chapter on violence, prescribes a code of conduct for the various political groups and the security forces.

7/ CODESA II decided that its Management Committee, consisting of two representatives from each participating organization, should look at the issues but, despite meeting on 25 May 1992, the issues could not be resolved.

8/ The incident in which armed men attacked residents of the township of Boipatong, near Johannesburg, killing 40 men, women and children, is believed to have been perpetrated by supporters of Inkatha assisted by the police.

9/ This high-level document was initialled by President De Klerk for the Government and Mr. Nelson Mandela for the ANC.

10/ Five to 10 per cent of the votes was the figure agreed upon.

11/ Commonwealth Secretariat, "Violence in South Africa: Report of the Commonwealth Observer Mission to South Africa", January 1993.

12/ "Report of the Chairman of the Special Committee against Apartheid on his mission to South Africa, 1-11 March 1993" (A/AC.115/L.693), p. 5.

13/ Ibid.

14/ Ibid.

15/ South African Institute of Race Relations (SAIRR), Race Relations Survey: 1992/93, p. 449.

16/ Ibid., p. 453.

17/ Ibid., p. 465.

18/ Commonwealth Secretariat, op. cit., p. 13.

19/ The Goldstone Commission is one of the key structures of the National Peace Accord examined in the chapter on violence.

20/ Centre against Apartheid, "Briefing note for the Secretary-General on the latest Developments in South Africa", 25 March 1993, p. 3.

21/ Mark Anstey, "Mediation in South African Transition: critical review of developments, problems and potentials", p.11.

22/ Ibid., p. 12.

23/ J. Kane-Berman, The Silent Revolution, Johannesburg, South African Institute for Race Relations, 1991.

24/ A/AC.115/L.693, op. cit., p. 6.

25/ Sowetan; Star, 23 January 1992.

26/ New York Times, 24 April and 1 May 1992.

27/ The Weekly Mail (Johannesburg), 22-23 May 1992.

28/ Dr. Gluckman is a prominent South African pathologist whose disclosures were reported in the Sunday Times (Johannesburg) of 28 July 1992.

29/ Sash, January 1992.

30/ Amnesty International, South Africa: State of Fear, June 1992.

31/ International Commission of Jurists, Agenda for Peace, Geneva, March 1992.

32/ Citizen; Star, 28 April 1992.

33/ Commonwealth Secretariat, op. cit., p. 24.

34/ Ibid.

35/ The Commission has investigated both the Boipatong and Bisho killings, and the alleged involvement of SADF in fomenting violence, among others.

36/ Centre Against Apartheid, op. cit., p. 3.

37/ Centre Against Apartheid "Note on educational reform in South Africa", (93/06), 25 February 1993.

38/ "Final report of the Ad Hoc Working Group of Experts on Southern Africa" (E/CN.4/1993/14), paragraph 185.

39/ SAIRR, op. cit., p. 52.

40/ Centre against Apartheid (93/06), op. cit.

41/ Time "Birthing a nation", 14 June 1993, p. 41.

42/ Engineering News (South Africa) 4 September 1992.

43/ Ibid.

44/ Economist Intelligence Unit, South Africa Country Profile, 1992-93, London, 1992.

45/ SAIRR, op. cit., p. 46.

46/ Ibid.

47/ Independent Board of Inquiry into Informal Repression, Fortresses of Fear, Braamfontein, May 1992.

48/ Time, op. cit., p. 42.

49/ SAIRR, op. cit., p. 50.

50/ Ibid.

51/ Ibid., p. 51.

52/ The National Coordinating Committee for the Repatriation of Exiles was disbanded following allegations of corruption against some of its members. The allegations are now being investigated.

53/ Sunday Times (South Africa), 23 August 1992.

54/ At the time of concluding this report, no information was available as to whether the amended Acts have been promulgated.

55/ It could not be established whether farm workers now benefit from the provisions of the Wage Act.

56/ Centre Against Apartheid "Note on the National Economic Forum" (93/05) 19 January 1993.

57/ SAIRR, op. cit., p. 52.

58/ Ibid.

59/ Ibid.

60/ Ibid.

61/ Ibid., p. 51.

62/ Business Day; Citizen, 29 September 1992.

63/ Star, 1 September 1992.

64/ Ibid.

65/ South African Housing Advisory Council, Housing in South Africa, pp. 296-297.

66/ International Herald Tribune, 3 February 1993.

67/ An alternative Bill of Rights proposed by ANC guarantees these rights.

68/ Financial Times, 6 February 1993.

69/ ANC leader Mr. Nelson Mandela said in a recent Time magazine interview that the youths have now accepted the idea of a Government of National Unity.

70/ Time, op. cit., 14 June 1993.

71/ Citizen, 20 March 1992.

72/ Time, op. cit., 14 June 1993.

73/ Ibid.

74/ The Committee of Generals is made up retired police and army generals among whom are General Viljoen, who headed the Armed Forces until 1985, and General Groenewald, who ran Military Intelligence in the 1980s.

75/ Report of the Special Committee Against Apartheid (S/24663), 6 November 1992.

76/ "Policies of apartheid of the Government of South Africa: report of the Secretary-General" (A/47/574), 6 November 1992.

77/ International Labour Office, Special Report of the Director-General on the Declaration concerning Action against Apartheid, 1992.